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# FEDERAL COMMUNICATIONS COMMISSION

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In Re Applications of:	)	GC DOCKET No.: 95-172
	)	
RAINBOW BROADCASTING COMPANY	)	File No.: BMPCT-910625KP
	)	File No.: BMPCT-910125KE
For an Extension of Time to	)	File No.: BMPCT-911129KT
Construct	)	
	)	
and	)	
	)	
For an Assignment of its	)	
Construction Permit for	)	
Station WRBW (TV),	)	
Orlando, Florida	)	

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FEDERAL COMMUNICATIONS COMMISSION  
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Date: March 7, 1996

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## HERITAGE REPORTING CORPORATION

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Orlando, Florida	)	

Room 234  
Courtroom 3  
FCC Building  
2000 L Street, N.W.  
Washington, D.C.

Thursday,  
March 7, 1996

The parties met, pursuant to the notice of the  
Judge, at 9:02 a.m.

BEFORE: HON. JOSEPH CHACHKIN  
Administrative Law Judge

APPEARANCES:

On behalf of the Rainbow Broadcasting Company:

BRUCE A. EISEN, ESQUIRE  
ALLAN G. MOSKOWITZ, ESQ.  
Kaye, Scholer, Fierman, Hays & Handler  
901 15th Street, N.W.  
Washington, D.C. 20005  
(202) 682-3538

Heritage Reporting Corporation  
(202) 628-4888

APPEARANCES (continued):

On Behalf of the Commission:

DAVID SILBERMAN, ESQUIRE  
STEWART A. BLOCK, ESQUIRE  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554  
(202) 418-2819

On Behalf of the Press Broadcasting Company:

HARRY F. COLE, ESQUIRE  
ANN C. FARHAT, ESQUIRE  
Bechtel & Cole, Chartered  
1901 L Street, N.W., Suite 250  
Washington, D.C. 20035  
(202) 833-4190

On Behalf of Potential Witnesses:

CHARLES E. DZIEDZIC, ESQUIRE  
Federal Communications Commission  
1919 M Street, N.W., Room 702  
Washington, D.C. 20554  
(202) 418-1604

I N D E X

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
None.					

E X H I B I T S

<u>Number:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>	<u>REJECTED</u>
None.			

Hearing Began: 9:02 a.m.      Hearing Ended: 10:06 a.m.

1                               P R O C E E D I N G S

2                   JUDGE CHACHKIN: All right, let us go on the  
3 record. May I have the appearances of the parties on behalf  
4 of Rainbow Broadcasting Company?

5                   MR. EISEN: Bruce Eisen and Allan Moskowitz, of  
6 Kaye, Scholer, Fierman, Hays & Handler.

7                   JUDGE CHACHKIN: On behalf of Press Broadcasting  
8 Company?

9                   MR. COLE: Harry Cole and Ann Farhat, of the firm  
10 Bechtel and Cole.

11                  JUDGE CHACHKIN: On behalf of the separated trial  
12 staff?

13                  MR. SILBERMAN: David Silberman and Stewart Block,  
14 of the Office of General Counsel.

15                  JUDGE CHACHKIN: All right, first of all, at the  
16 last pre-hearing conference, on January 30, there was  
17 discussion concerning -- the parties would get together and  
18 discuss possible stipulations or other agreements of any  
19 kind.

20                  Would someone give me a report of what, in fact,  
21 has transpired, if anything, since the last conference, in  
22 terms of stipulations?

23                  MR. EISEN: Your Honor, I do not think that there  
24 have been stipulations that we have agreed to at this point.  
25 I think part of the problem may relate to the fact that

1       there are Freedom of Information requests in review.

2               We have discussed the questions of stipulations in  
3       trying to pare down some of the issues in the proceeding,  
4       but I cannot report that we have been successful in doing  
5       that.

6               JUDGE CHACHKIN: Well, has there been any  
7       discussion of a trial schedule acceptable to all of the  
8       parties?

9               MR. EISEN: Well, again, there could have been,  
10      but I think that this Freedom of Information request is kind  
11      of hamstringing us at this point. The parties actually did  
12      discuss the trial schedule, but came to the conclusion that,  
13      until we see what comes of the Freedom of Information Act  
14      request, it is almost virtually impossible to set one.

15              MR. COLE: And, Your Honor, if I may also? In  
16      addition to the FOIA request, there is the question of the  
17      depositions. At this point, we are still working out,  
18      obviously, the question of how to depose. If we will be  
19      able to depose, and, if so, the circumstances of deposing  
20      the Bureau personnel, which is, I think, moving toward a  
21      resolution at this point. At least, we have notices filed,  
22      we have oppositions in, and we are at least on a track to  
23      get that tied down a little bit.

24              As of right now, as I believe Your Honor is aware,  
25      I still do not have the limited partner identifications from

1 Rainbow, so I am not in a position to start my deposition  
2 schedule on that. I think it is safe to say that discovery  
3 is kind of moving forward in fits and starts. It is  
4 starting to move forward, but there is still a ways to go  
5 before we will have a clear track on that.

6 MR. SILBERMAN: Your Honor, if I might speak to  
7 this? In addition to waiting for the response to the FOIA  
8 request and the notices of depositions that have been filed  
9 by Press, the separate trial staff has also filed a request  
10 for production of document; we filed it with Rainbow. Asked  
11 Rainbow to produce documents relating to the ex parte and  
12 financial misrepresentation issues. And we are awaiting  
13 response to that.

14 And I agree with counsel for Rainbow that, at this  
15 state, it is very difficult to set a deadline or set a time  
16 for the hearing, when we are still in the midst of trying to  
17 get the discovery house in order, so to speak. And we are  
18 moving as expeditiously as possible.

19 Today, we are filing with Rainbow the request for  
20 admissions and genuineness of documents, to the extent that  
21 we can request admissions at this time, based on what we  
22 know thus far. But we would have to await further discovery  
23 to ask for further admissions, possibly, and to reach  
24 stipulations with Rainbow on some of the issues.

25 JUDGE CHACHKIN: Well, first of all, Mr. Eisen, I

1     assume you got a copy of my memorandum/opinion/order.

2             MR. EISEN:  Yes, I did.

3             JUDGE CHACHKIN:  And I stated there that I am  
4     directing Rainbow to furnish the names and addresses of all  
5     principals of Rainbow by tomorrow.

6             MR. EISEN:  Yes, you did, Your Honor.

7             JUDGE CHACHKIN:  Will you comply with that,  
8     Mr. Eisen?

9             MR. EISEN:  I would like to address that for a  
10    moment.

11            JUDGE CHACHKIN:  Go ahead.

12            MR. EISEN:  I know that this has been beaten about  
13    and you have ruled twice.

14            JUDGE CHACHKIN:  Three times now, I believe.

15            MR. EISEN:  I do not have the list.  I know it  
16    exists.  There in excess of 35 limited partners.  And I am  
17    fully prepared and will make certain that we comply with  
18    your request, but I would like to add just a couple of  
19    factors to it.

20            Rainbow is very concerned about the use of those  
21    limited partners pre-discovery.  There have been allegations  
22    back and forth on the record and there is no reason to go  
23    into it again about why Rainbow believes that the provision  
24    of those names to Press may cause some mischief that would  
25    be against our interests and very prejudicial.



1           Let me just say this. It is my intention, within  
2   the next week to 10 day, to file a motion for summary  
3   decision on the financial misrepresentation issue. If we  
4   are fortunate and Your Honor --

5           JUDGE CHACHKIN: I am going to cut you off right  
6   there. I am not going to wait. In any event, if I did ever  
7   consider a motion for summary decision on the issue, I would  
8   still require --

9           MR. EISEN: Fine.

10          JUDGE CHACHKIN: -- before I granted it, parties  
11   the full opportunity to conduct discovery.

12          MR. EISEN: Okay.

13          JUDGE CHACHKIN: And by that I mean, at the very  
14   least, getting the names and addresses, the identities, so  
15   discovery could be conducted. So, I am not going to wait  
16   for any motion. Unless you can get a stay granted by the  
17   Commission, I expect full compliance.

18          MR. EISEN: Okay.

19          Would you let me finish, sir? All I wanted to add  
20   to that was this. Apart from the question of summary  
21   decision, there is a mechanism within the Rules whereby  
22   notices of deposition can be filed without specific  
23   reference to the names of the individuals --

24          JUDGE CHACHKIN: I thought I dealt with that  
25   pretty --

1 MR. EISEN: Yes, you did.

2 JUDGE CHACHKIN: -- fully. I recognize there is,  
3 but the point of the matter is, we are not dealing with a  
4 situation where they could possibly establish any relevancy  
5 --

6 MR. EISEN: Correct.

7 JUDGE CHACHKIN: -- of any of these individuals  
8 without having known who they are in the beginning, to  
9 conduct some kind of investigation on their own.

10 MR. EISEN: Well, would Your Honor allow us to  
11 provide to you the list in camera?

12 JUDGE CHACHKIN: No. There is absolutely no  
13 reason that I see --

14 MR. EISEN: All right.

15 JUDGE CHACHKIN: -- why the list should not be  
16 provided. It seems to me it is preliminary.

17 MR. EISEN: All right.

18 JUDGE CHACHKIN: It is necessary to initiate  
19 discovery. I thought I dealt with your question, if you are  
20 concerned about any abuse.

21 MR. EISEN: Yes.

22 JUDGE CHACHKIN: If you feel any abuse has been  
23 perpetrated, you have a right to go to the Commission. They  
24 have a license. You can go to the Commission and file some  
25 kind of motion with them. You can come to me and, if there

1 is any abuse, believe me, I will cut off any discovery.

2 MR. EISEN: So, the footnote which you dropped,  
3 Footnote Four, on the second page of your order --

4 JUDGE CHACHKIN: Yes.

5 MR. EISEN: -- about possible abuses here, what  
6 you envision is, if Press were, in fact, to violate this  
7 order, that we would have to go to the Commission because  
8 they are a licensee --

9 JUDGE CHACHKIN: No, I --

10 MR. EISEN: -- or somehow seek redress against one  
11 of their licensed facilities.

12 JUDGE CHACHKIN: I envision two types of relief.  
13 First of all, you could go to the Commission. Secondly, you  
14 could come to me and, if I feel there has been an abuse, I  
15 will prevent Press from conducting any further discovery,  
16 certainly, of limited partners.

17 If I feel that they have abused the identity of  
18 these names, they have used them for some purpose  
19 improperly, then I will do whatever I can; namely, cut off  
20 further discovery by Press or take whatever other steps I  
21 can take.

22 MR. EISEN: The trouble is, by that time, the  
23 damage may already have been done.

24 JUDGE CHACHKIN: Well, I do not know what you are  
25 talking about, damages. It is inconceivable to me that

1 Press is going to use these names in some damaging fashion.  
2 I do not understand where this fear comes from. I have read  
3 all of your pleadings and I read the responses by Press.  
4 And that deals with an entirely different matter. It has  
5 nothing to do with the limited partners.

6 So, I do not understand where this fear that Press  
7 is going to use these limited partners in some kind of  
8 improper manner. I mean, that fear exists in every case  
9 where a party divulges the named identities of individuals.  
10 But I have some authority to do things if something is being  
11 done improperly.

12 And, as I say, in addition, I am sure Press does  
13 not want to put in jeopardy their license, or maybe more  
14 than one license. But that is all I can tell you.

15 But it seems to me, at a preliminary stage,  
16 certainly, in light of the fact that there is a  
17 misrepresentation/financial issue and certainly in light of  
18 the representations made to the Commission concerning equity  
19 financing, the Press is entitled to the identity of these  
20 individuals.

21 Now, whether they will be permitted to depose them  
22 is another question. First, they would have to establish  
23 that they have relevant evidence. But we are still at a  
24 preliminary stage. And I was astounded, frankly, that any  
25 objection should be made, and, certainly, such strong

1 objection to the identity of limited partners.

2 MR. EISEN: Well, only because of what we perceive  
3 as a pattern of abuse in the past. Now, I know Press has  
4 put a different spin on that. But I think it was a genuine  
5 and legitimate concern.

6 Nevertheless, Your Honor, I understand your order  
7 and I will do my best and will comply with the request.

8 JUDGE CHACHKIN: All right. Now, I have had a  
9 chance to briefly glance at the Freedom of Information  
10 request. And what concerns me is, that the way I view the  
11 issue, it seems to me, it is a very narrow issue, certainly  
12 in terms of the Commission staff.

13 And, namely, all that is relevant insofar as the  
14 Commission staff is, is communications between staff  
15 employees and counsel or principals of Rainbow. That is all  
16 that is relevant.

17 We are not getting into a question here of whether  
18 staff acted improperly or any staff member was wrong in  
19 saying this was ex parte. The Commission has made a  
20 determination that the contacts were ex parte.

21 All we are dealing with is, is whether Rainbow  
22 intentionally violated the ex parte rules. So, the  
23 disagreements among and between the staff is irrelevant.  
24 And, I do not know, the Freedom of Information Act request  
25 seems to go way beyond, at my first glance, of what is

1       necessary.

2               It seems to me the only thing that would be  
3       relevant to the Freedom of Information request would be that  
4       correspondence -- any letters, documents -- transmitted to  
5       Rainbow. Other than that, what took place between and among  
6       the staff seems to me totally irrelevant to whether Rainbow  
7       intentionally violated the ex parte rule.

8               So, it seems to me, we are making too much of this  
9       issue, in terms of what the issue really deals with here.

10              Mr. Cole, do you have any response? What exactly  
11       are we doing here? I notice, for instance, you want to  
12       depose a gentleman who worked for the managing director's  
13       office, Mr. Sandifer.

14              MR. COLE: That is correct, Your Honor.

15              JUDGE CHACHKIN: Now, all I see about  
16       Mr. Sandifer, as I understand from reading all of this is,  
17       Mr. Sandifer apparently received correspondence and he  
18       transmitted correspondence to Rainbow, advising them of the  
19       ex parte violation. That he could not deal with the matter  
20       because it was ex parte.

21              MR. COLE: That is correct, Your Honor.

22              JUDGE CHACHKIN: Why do we need to depose  
23       Mr. Sandifer? The correspondence, unless there is a  
24       question about authenticity, what else could Mr. Sandifer  
25       offer? His reasoning is irrelevant.

1           MR. COLE: No, I am not interested in his  
2 reasoning, Your Honor. What I am interested in primarily  
3 is, whether or not Rainbow sought to contact him after his  
4 letter went out, to determine whether or not there is any  
5 room, within the scope of his letter, which would permit  
6 ex parte communications.

7           I mean, I read the letter as pretty unequivocal.  
8 And, certainly, when it came into my office in '91, that was  
9 the way I read it. But I have no way of knowing whether  
10 Rainbow sought to communicate with him. And I think that  
11 would be relevant to the question as to their intent.

12           Certainly, if Rainbow called Mr. Sandifer up and  
13 Mr. Sandifer said, here is the way I read it and interpret  
14 it much more narrowly than I read it, then, possibly,  
15 Rainbow would have an excuse.

16           If Rainbow did not make such a contact, then I  
17 think that that is relevant on the issue of its intent.

18           JUDGE CHACHKIN: Well, cannot we get some kind of  
19 stipulation, without calling the gentleman to testify, to  
20 find out if he had any further contacts with Rainbow? If,  
21 in fact, he had no further contacts -- and, in all  
22 likelihood, the managing director's office just sends a  
23 letter out and that is the end of the matter. I mean, he is  
24 not a member of the staff, the Mass Media Staff.

25           So, if that is all that happened, I do not see the

1     need to deposing him.  Cannot we get some sort of  
2     stipulation that that was the total context between Sandifer  
3     and Rainbow?  Any correspondence back and forth?

4             MR. COLE:  Your Honor, if I could I would be happy  
5     to withdraw that notice of depositions and serve a simple  
6     interrogatory on him, a couple of interrogatories directed  
7     to that fairly narrow question.  If that would be --

8             JUDGE CHACHKIN:  If we would need to.  Or else, it  
9     seems to me, perhaps informally, that you could reach a  
10    stipulation.  If that is all we are interested in, whether  
11    there were any further contacts between Sandifer and  
12    Rainbow, that could be done on an informal basis and a  
13    stipulation could be reached.

14            I am just trying to, if possible, simplify this  
15    matter, not to let it get to be so big when it does not have  
16    to be.  Let us try to see if we can work out some informal  
17    methodology that you can call up Mr. Sandifer or somebody or  
18    all the parties can contact Mr. Sandifer and find out if he  
19    had any further contacts.  If he did not, then, it seems to  
20    me, there is no basis to depose him.

21            And I say, in all likelihood, I doubt if he would  
22    have any further contacts, since he was from the managing  
23    director's office.

24            MR. COLE:  That would be my guess, Your Honor, but  
25    I just want to tie that down.  And if we can do that without



1 a deposition, that is fine with me.

2 JUDGE CHACHKIN: Now, do you intend, Mr. Cole, to  
3 continue to insist on deposing the general counsel, in light  
4 of his response?

5 MR. COLE: Ah, Your Honor, there again, my  
6 inclination -- and I just got his response, I think,  
7 yesterday -- but my inclination is probably to file, again,  
8 a simple set of interrogatories, in light of the information  
9 he provided.

10 I am still somewhat troubled by the fact he  
11 provided no dates with respect to when his representation or  
12 the advice he gave to Rainbow occurred. And, also, I --

13 JUDGE CHACHKIN: But he had nothing to do with the  
14 ex parte issue. That is all that is relevant. He has made  
15 the point --

16 MR. COLE: No, no, Your Honor, with respect to  
17 Mr. Kennard, I am not sure that it is only with respect to  
18 the ex parte issue. Because, as I indicated in my initial  
19 notice, all I knew was that he had been recused because of  
20 some prior involvement, some way, in the case. So, I  
21 noticed him with respect to all three issues.

22 With respect to the ex parte issue, I  
23 think -- again, I do not know what the nature of his  
24 representation was. Certainly, if it occurred before June  
25 of 1993, it would probably have had nothing to do with the

1 ex parte issue.

2 But since it did involve questions involving the  
3 tax certificate program, that says to me that the only  
4 reason that Rainbow would have been interested in the tax  
5 certificate program would be if they were trying to sell or  
6 were exploring the possibility of selling their permit,  
7 which might lead to relevant evidence under the financial  
8 misrepresentation issue.

9 JUDGE CHACHKIN: So, what you are indicating me is  
10 you are going to fashion some interrogatories and do that  
11 instead of a deposition --

12 MR. COLE: Yes.

13 JUDGE CHACHKIN: -- as far as the general counsel  
14 is concerned.

15 MR. COLE: That is correct, Your Honor.

16 JUDGE CHACHKIN: So, you are going to withdraw  
17 your request to depose him, is that correct?

18 MR. COLE: Yes, when I file my interrogatories,  
19 Your Honor, that is correct.

20 JUDGE CHACHKIN: All right.

21 MR. COLE: And also, Your Honor, if I might, just  
22 on that question, I believe that I can submit  
23 interrogatories to him without seeking further leave of Your  
24 Honor, since he is not a party, but I request direction from  
25 you. He is not a party and, therefore, normally I would not

1 be able to submit interrogatories to him, as I understand  
2 the Rules, except he is Commission staff. But he is not  
3 being --

4 JUDGE CHACHKIN: But do not the Rules specifically  
5 say that you can submit interrogatories to Commission staff?

6 MR. BLOCK: Your Honor, Mr. Cole is caught in a  
7 conundrum. He first argued that 1.311 does not apply, so he  
8 could take the deposition. That 1.311 of the Commission  
9 Rules provide for interrogatories to the Commission staff.  
10 Mr. Cole has argued that Mr. Kennard was not acting as a  
11 Commission staff employee; therefore, he is not subject to  
12 the limitations on depositions. He cannot go around now and  
13 say that they are; that, somehow, it applies anyway.

14 Our position is that Mr. Kennard has made it very  
15 clear that he had nothing to do with any of the issues. The  
16 issue is misrepresentation of the financial status of  
17 Rainbow. Mr. Kennard did not work on those matters. He has  
18 testified under oath already, through an affidavit, that he  
19 did not work on those matters. And I think that, at that  
20 point, the matter should be closed.

21 If, at some point, hypothetically, down the road,  
22 his name should come up again or some relevance could be  
23 found again -- but it is purely fishing, and that is what  
24 the Commission Rules do not permit any discovery for.  
25 Fishing to find out whether there is some relationship that

1 is inferentially secondary or tangential to the issue. Let  
2 us get to the issue first, before we start talking about  
3 people who say already, under oath, they had nothing to do  
4 with the issue.

5 MR. COLE: Excuse me, Your Honor, if I might  
6 respond to that. While I have worlds of respect for  
7 Mr. Kennard, I think it is entirely inappropriate to allow a  
8 witness to conclude, to state conclusively, I do not know  
9 anything about any of the issues, period, and us take his  
10 word for it.

11 We know that he represented Rainbow in some  
12 capacity. We know he represented Rainbow in connection at  
13 least, it would appear, with the prospect of a sale of  
14 Rainbow's interests, at some point; we do not know when. We  
15 do not know how extensive that representation was. It could  
16 have been extremely brief; it could have been extensive. We  
17 do not know.

18 And I am simply trying to develop that record as  
19 best I can. And I am certainly not trying to intrude on  
20 Mr. Kennard's time, but I think, if we are here to establish  
21 a record, we have an indication now that Mr. Kennard did  
22 have contacts with Rainbow in a matter which might involve,  
23 might lead to the discovery of relevant evidence with  
24 respect to the financial misrepresentation issue.

25 MR. EISEN: Your Honor, can I be heard for just

1 one moment?

2 JUDGE CHACHKIN: Yes, yes, Mr. Eisen.

3 MR. EISEN: First of all, I am sure whether  
4 Mr. Kennard has stated he actually represented Rainbow, when  
5 I was reading my papers, but we certainly did contact him.  
6 We may have said "representation" on that, but to any prior  
7 date and time. But the implication that, in some way,  
8 because Rainbow sought his advice on matters regarding the  
9 tax certificate program does not, in my estimation, track  
10 what Mr. Cole mentioned about the possible sale of the  
11 construction permit.

12 In fact, I do not think that the tax certificate  
13 program could apply to the sale of a naked construction  
14 permit. So, I think that, under those circumstances, the  
15 relevance under the financial misrepresentation issue, is  
16 just not there.

17 JUDGE CHACHKIN: Well, all I can say is that  
18 Mr. Cole is entitled to file a response. If he cannot  
19 establish relevance that Mr. Kennard's testimony is  
20 relevant, then, obviously, I will not permit the deposition  
21 to be taken. That is up to Mr. Cole.

22 I have the declaration of Mr. Kennard in front of  
23 me and all he says is, he was a partner of Verner, Liipfert.  
24 And in that capacity, he provided legal advice to Rainbow on  
25 corporate and transactional matters with respect to the

1 FCC's tax certificate program.

2 For that reason, he recused him from participating  
3 in matters involving Rainbow. He says he never represented  
4 Rainbow before the FCC or advised Rainbow concerning matters  
5 before the FCC. "Specifically, at no time did I represent or  
6 provide advice to Rainbow concerning applications or  
7 proceedings at issue in this case or any matter pertaining  
8 to the issues of this case that has been designated for  
9 hearing."

10 That is what he says. Now, if you have any  
11 information otherwise, you can state so in your response and  
12 I will rule on the matter. But the burden is on you to  
13 establish that he has relevant testimony, and we have  
14 Mr. Kennard's opposition.

15 MR. SILBERMAN: Your Honor, may I get a  
16 clarification? Are you saying now that you are inclined not  
17 to grant the request to depose Mr. Kennard?

18 JUDGE CHACHKIN: No, all I am saying is, is that  
19 the burden is on Mr. Cole to establish that he had relevant  
20 testimony. He has another shot to establish that, because  
21 the Rules provide that he can file a response.

22 MR. SILBERMAN: To Mr. Kennard's --

23 JUDGE CHACHKIN: Opposition.

24 MR. SILBERMAN: -- yes.

25 JUDGE CHACHKIN: At that time, I will rule. I am

1 just indicating what Mr. Kennard has stated. And now, the  
2 burden is on Mr. Cole to dispute that.

3 MR. COLE: Your Honor?

4 MR. SILBERMAN: Thank you, Your Honor.

5 MR. COLE: If I may clarify my burden? You have  
6 stated that it is my burden to show that Mr. Kennard has  
7 relevant evidence.

8 JUDGE CHACHKIN: That is right.

9 MR. COLE: And it was my understanding that my  
10 discovery burden was to show that questioning Mr. Kennard,  
11 whether in writing or in person, would lead to the  
12 discovery, is the reasoning I got.

13 JUDGE CHACHKIN: Oh, no, no, no, that is not what  
14 the Rules say. You cannot conduct depositions unless you  
15 have a basis for it. In other words, you cannot conduct  
16 depositions to go on a fishing expedition.

17 MR. COLE: I understand that.

18 JUDGE CHACHKIN: You have to demonstrate, in order  
19 to conduct depositions, that the individual has relevant  
20 evidence. And we have Mr. Kennard's statement that he did  
21 not have anything to do with the applications. Now, if you  
22 have evidence to the contrary to show that he has relevant  
23 evidence, that his deposition should be taken, that is up to  
24 you to show and you have another crack at it in your  
25 response.

1 Well, there has been production of documents  
2 requested of Rainbow now outstanding?

3 MR. SILBERMAN: Yes, Your Honor.

4 MR. COLE: And of Press, Your Honor.

5 JUDGE CHACHKIN: And Press, yes. By the way, I  
6 also received, as far as Mr. Gordon is concerned, I received  
7 a request from Mr. Gordon's attorney requesting an extension  
8 of time to respond to the notice to take deposition. I  
9 believe he requested until the twelfth. I believe it is the  
10 twelfth.

11 Does anyone have any objections? I know Mr. Cole  
12 has indicated he has no objection. Does anyone have any  
13 objection to an extension until the twelfth to respond to  
14 the notice?

15 MR. EISEN: No, Your Honor.

16 MR. SILBERMAN: No, the separate trial staff does  
17 not, Your Honor.

18 JUDGE CHACHKIN: The only question is, I believe  
19 the notice to take deposition -- were they separate notices  
20 to each party?

21 MR. COLE: No, there was a single notice.

22 JUDGE CHACHKIN: So, I assume Mr. Cole would want  
23 to file, then, one response to all the notices, except for  
24 Mr. Kennard, which was a separate notice.

25 MR. COLE: Yes, that is correct.



1 JUDGE CHACHKIN: Does anyone have an objection to  
2 Mr. Cole filing a single response, because you filed one  
3 single notice?

4 MR. SILBERMAN: We do not, Your Honor.

5 JUDGE CHACHKIN: All right, there is no objection.  
6 So, your time will run from the response of Mr. Gordon's  
7 attorney.

8 MR. COLE: Thank you, Your Honor.

9 JUDGE CHACHKIN: Now, as far as the hearing is  
10 concerned, it seems to me that we still could adopt a  
11 hearing schedule, notwithstanding there is going to be some  
12 discovery.

13 First of all, it does not seem to me that  
14 discovery is going to be as extensive as you might think  
15 from all the papers that have been filed. It seems to me,  
16 at the most, we are talking about four Commission employees,  
17 I believe. I am talking about Mr. Stewart, Ms. Kreisman,  
18 Mr. Pendarvis and Mr. Gordon.

19 MR. EISEN: And Mr. Rey.

20 JUDGE CHACHKIN: And Mr. Rey. So, that is five  
21 Commission employees we are talking about. And I assume,  
22 even under the worst of circumstances, that would be  
23 completed in one day. Considering all we are interested in  
24 is any conversations or discussions they had with Rainbow or  
25 any correspondence they submitted to Rainbow. It seems to